

Permit No.: NDR05-0000

Effective Date: April 11, 2005

Expiration Date: March 31, 2010

AUTHORIZATION TO DISCHARGE UNDER THE
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33-16-01 of the North Dakota Department of Health rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code,

facilities both qualifying for and satisfying the requirements identified in Part I of this permit

are authorized to discharge storm water associated with **INDUSTRIAL ACTIVITY**

to waters of the state

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in this permit.

This permit and the authorization to discharge shall expire at midnight,

March 31, 2010.

/Signed/
Dennis R. Fewless, Director
Division of Water Quality

4/11/2005
Date

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PART I - PERMIT COVERAGE AND LIMITATIONS

A. Discharges Covered

1. This permit applies to all areas within the jurisdiction of the state of North Dakota.
2. This permit applies to discharges composed (either in whole or in part) of storm water associated with industrial activity as defined in 40 CFR 122.26(b)(14) except for the following:
 - a. Operations involved in mining or extracting activities, including processes to prepare materials for use, SIC Codes 10 through 14.
 - b. Portable or temporary concrete or asphalt batch plants, SIC Codes 1611 and 2951.
 - c. Storm water discharges from construction activity as defined in 40 CFR 122.26(b)(14)(x).
3. Certain non-storm water discharges from facilities covered by this permit and meeting the requirements specified in Part II.A.

B. Discharges Not Covered

1. Storm water discharges subject to a nationally established effluent limitations guideline or other performance standard under 40 CFR subchapter N.
2. Discharges or releases of process wastewaters or other non-storm water discharges except those authorized under Part II.A.
3. Discharges to waters for which there is a total maximum daily load (TMDL) allocation are not covered unless you develop a SWPP plan that is consistent with the assumptions, allocations and requirements in the approved TMDL. If a specific numeric wasteload allocation has been established that would apply to the facility's discharges, the permittee(s) must incorporate that allocation into its SWPP plan and implement necessary steps to meet that allocation.
4. The placement of fill into waters of the state requiring local, state, or federal authorizations (such as U.S. Army Corps of Engineers Section 404 permits).
5. This permit does not substitute for obligations under the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), or National Historic Preservation Act (NHPA), it is your responsibility to ensure the project and resulting discharges comply with the respective requirements.
6. Storm water discharges that the Department determines will cause, or have the reasonable potential to cause or contribute to, violations of water quality standards.

C. Obtaining Coverage and Authorization Effective Date

1. To obtain authorization under this general permit for storm water discharges you must submit a complete application and develop a Storm Water Pollution Prevention (SWPP) plan in accordance with Part II.C of this permit. A plan must be in place as a condition of this permit and a copy of the plan must be retained by the operator of the facility. A copy of the plan must be submitted with the application for certain facilities as described in Part I.D.3.
2. Permit coverage will become effective 7 days after you submit a complete application unless otherwise notified by the Department (based on the earlier of postmarked date or department date-stamp).
3. Upon the effective date of permit coverage you, as the permit applicant, are authorized to discharge storm water from eligible activities under the terms and conditions of this permit.

D. Application Contents

1. You may use a Notice of Intent (NOI) form (or photo copy thereof) to complete your application. The NOI form (or a replacement application form) will be available on the state's website at <http://www.health.state.nd.us/wq/Storm/StormWaterHome.htm>.
2. The application shall contain, at a minimum, the following information:
 - a. Name and mailing address of the owner or operator
 - b. Contact name and phone number
 - c. Name of facility or site
 - d. A brief description of the nature of business or activity
 - e. Standard Industrial Classification (SIC) Code
 - f. Location of the site(s), including the county, latitude and longitude or township, range, section, and 1/4 section
 - g. Site map showing the site layout, property boundary, topography and drain patterns
 - h. Name of receiving water(s) or the name of the receiving municipal storm sewer system and receiving water(s)
 - i. The signature of the applicant(s), signed in accordance with Signatory Requirements in Part IV-E of this permit
3. You must include a copy of the Storm Water Pollution Prevention (SWPP) plan if the facility involves 50 or more acres; or will have a discharge point located with 2000 ft of, and flow to, a water body listed as impaired under section 303(d) of the Federal CWA (see 303(d) List on Department's web site).
4. Local agencies may operate a local storm water management program and impose local requirements. The local authority may require that a copy of the application be provided to them for review and approval.
5. Completed applications, and any reports required by this permit shall be submitted, by mail or hand delivery, to:

North Dakota Department of Health
Division of Water Quality
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58506-5520

- E. **Termination of Coverage.** A permittee may request the termination of permit coverage when storm water discharges associated with industrial activity are no longer present at the facility. The request must be made, in writing, to the Department. Depending on the reason for discontinuing coverage, the request must consist of either of the following:
1. No Exposure. A no exposure certification made in accordance with 40 CFR 122.26(g) will constitute a request for termination of coverage under this permit. To qualify for the conditional exemption, all industrial materials and activities must be protected to prevent exposure to storm water. A facility operator must submit a No Exposure Certification form (SFN 52314) to the Department to end permit coverage under conditional exclusion provided for no exposure of industrial activities and materials.
 2. Elimination of sources. If storm water discharges associated with industrial activity have been eliminated, the request must include the name and address of the operator, the name and location of the facility, the permit number, and a description of why coverage is not necessary (i.e., plant closure, ceasing industrial activity, removing equipment or storage, etc.). The request must be signed in accordance with signatory conditions of this permit.

PART II - STORM WATER DISCHARGE REQUIREMENTS

- A. **Prohibition on Non-Storm Water Discharges.** The discharge of wastewater from processing operations or sanitary facilities is not authorized by this permit. The following non-storm water discharges may be authorized if the non-storm water sources are identified in the SWPP plan with a description of the pollution prevention measures to be implemented: fire-fighting, fire hydrant flushing, potable water line flushing, infrequent building and equipment wash down without detergents, uncontaminated foundation drains, springs, lawn watering and air conditioning condensate.
- B. **Releases in Excess of Reportable Quantities.** This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302. Any release of a hazardous substance, including a release in a storm water discharge, must be reported to the agencies identified in Part IV F. The potential discharge of hazardous substances in storm water discharges shall be minimized by including measures in the SWPP plan to prevent and respond to releases of hazardous substances. Should a reportable quantity release occur, the SWPP plan shall be revised to prevent the reoccurrence of such a release.
- C. **Storm Water Pollution Prevention Plans.** All facilities covered by this permit shall prepare and implement Storm Water Pollution Prevention (SWPP) plans. The SWPP plan and revisions are subject to review by the Department. The objective of the plan is to identify potential sources of storm water pollution associated with industrial activity and ensure that practices are implemented to minimize the contribution of pollutants. Storm water management measures developed under other regulatory programs can be included in the SWPP plan or incorporated by reference.

The Storm Water Pollution Prevention Plan shall include the following:

1. **Site Description.**
 - a. Provide a description of the type of activity conducted at the facility.
 - b. A site map indicating drainage patterns; the outline of the drainage area for each storm water outfall; areas used for storage or disposal of materials; and any existing or planned structures to reduce storm water contamination. Clearly identify property boundaries,

natural drainage ways receiving discharges, section, township, and range or lines of latitude and longitude. The map or drawing must be of suitable scale and quality to show the required information.

- c. Identify the individual(s) responsible for implementing, maintaining and revising the SWPP plan.

2. **Description of Potential Pollutant Sources.**

- a. Identify materials that are processed, handled, stored, or disposed of at your site that have the potential to be released with storm water.
- b. Provide an assessment of the various sources at the site that could contribute pollutants to storm water runoff. Each of the following shall be evaluated for the reasonable potential to contribute pollutants: loading/unloading operations, outdoor storage, disposal and processing activities, significant dust generating activities, and disturbed areas vulnerable to erosion. Factors to consider in assessing potential sources are: the nature and quantity of material, degree of exposure to storm water, history of spills or leaks, and any measures in place to control storm water.
- c. Identify sources of non-storm water discharges that may be present and controls used to minimize the impact of the source. If the non-storm water discharge is from a source other than those authorized in Part II.A, include measures to remove the illicit discharge.
- d. For facilities subject to Emergency Planning and Community Right-to-Know Act Section 313 (EPCRA 313) requirements, the potential pollutant sources for which you report under EPCRA 313 must be identified in your description of potential pollutant sources.

3. **Storm Water Controls.** The plan shall describe the existing or planned controls for each source or operation that may contribute pollutants to storm water runoff. A combination of Best Management Practices (BMPs) and structural controls must be implemented as appropriate to reduce pollutant contributions in storm water. Such practices include:

- a. Good housekeeping practices to maintain a clean and orderly facility. Litter, debris, chemicals, and parts must be handled properly to minimize their exposure to storm water. This includes measures to reduce and clean up vehicle tracking of sediment off-site and generation of dust.
- b. Preventive maintenance practices must be provided for the inspection and maintenance necessary to ensure the proper operation of storm water management devices (oil/water separators, catch basins, and silt fences) as well as equipment used or stored at a site.
- c. Spill prevention and response procedures must be developed where potential spills can occur. Where appropriate, specific handling procedures, storage requirements, spill containment, and cleanup procedures shall be identified.
- d. Employee training informs personnel of their responsibility in implementing the practices and controls included in the plan such as spill response, good housekeeping, preventive maintenance, and sediment control practices.
- e. Erosion and sediment controls must be implemented on areas of the facility vulnerable to erosion. Areas vulnerable to erosion include those with little or no vegetation, steep slopes, or those with concentrated runoff flows such as ditches and culverts. The plan shall identify the control measures that will be used to minimize the release of sediment from the site

(such as sediment basins, rock check dams, silt fences, vegetative buffers, permanent seeding, grassed swales, etc.) as well as methods to recover off-site sediment accumulations.

- f. Minimize exposure of industrial materials and activities to the extent practicable. Identify practices or site feature (such as storm resilient shelters) which limit the exposure or contact of storm water with materials or activities.
 - g. Storm Water Management. The plan shall include a description of practices that have been installed (or will be installed during construction) to control pollutants in storm water discharges from the facility or offset the increase in runoff due to impervious area at the facility. Such practices may include: storm water ponds; flow reduction by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems which combine several practices. The plan should include an explanation of the technical basis used to select the practices to control pollution where flows exceed pre-development levels.
4. **Maintenance.** All structural storm water controls and other protective measures identified in the plan must be maintained in effective operating condition. All control measures must be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices. The plan must indicate as appropriate the maintenance or clean out interval for sediment controls. If site inspections, required in this permit, identify BMPs that are not operating effectively, maintenance shall be arranged and accomplished as soon as practicable.
5. **Inspections.** The plan must provide for site inspections to monitor the condition of storm water discharge outlets and the effectiveness of storm water controls. The permittee shall ensure that personnel conducting site inspections are familiar with permit conditions and the proper installation and operation of control measures. The site inspection frequencies and requirements are provided in Part III of this permit, Self Monitoring and Reporting.
6. **Plan Review and Revisions.**
- a. The plan shall be signed in accordance with the signatory requirements, Part IV-E, and retained on-site for the duration of activity at the permitted location.
 - b. The permittee shall make plans available upon request to the Department, EPA, or, in the case of discharges to a municipal separate storm sewer system, to the operator of the municipal system.
 - c. The permittee shall amend the SWPP plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the state. The plan shall also be amended if the plan is found to be ineffective in controlling pollutants present in storm water.
 - d. A plan implemented under the previous version of this permit may be continued under this permit. Facilities operating under an existing SWPP plan are responsible for incorporating any changes necessitated by the conditions described in this permit. Any such changes must be implemented within 180 days of this permit's effective date, except for those related to inspection requirements which must be implemented within 30 days.

D. Additional Terms and Conditions

1. Salt Storage Piles. All salt storage piles used for deicing or other industrial or commercial purposes and which generate a storm water discharge associated with industrial activity shall be enclosed or covered to prevent exposure to precipitation. Salt storage piles do not need to be covered or enclosed when adding to or taking materials from the pile and when storm water drainage from the pile is contained on-site.
2. Bulk storage structures for petroleum products and other chemicals shall have adequate leak and spill protection to prevent any spilled materials from entering waters of the state.
3. The storm water controls are expected to withstand and function properly during precipitation events of less than or equal to the 2 year, 24 hour storm event. The release of sediment or other materials due to such storm events should be minimal. The 2 year, 24 hour rainfall event in North Dakota ranges from about 1.9 inches in the west to 2.3 inches in the east.
4. Dewatering or basin draining (e.g., pumped discharges, trench/ditch cuts for drainage) related to the permitted activity must be managed with the appropriate BMPs, such that the discharge does not adversely affect the receiving water or downstream landowners. The Permittee(s) must operate the discharge to minimize the release of sediment and provide energy dissipation measures to adequately protect the outlet from erosion. The dewatering is limited to storm water and small amounts of ground water that may collect on a site and those sources identified in Part II.A. A separate permit must be obtained for the release of water from other sources.
5. All storm water discharges must comply with the requirements, policies, or guidelines, of municipalities and other local agencies. Any discharges of storm water to storm drainage systems or other water courses under local jurisdiction, including those subject to municipal storm water management programs developed to comply with NDPDES permits, must comply with local requirements.

PART III - SELF-MONITORING AND REPORTING

A. Inspection Requirements

1. A comprehensive inspection of the permitted facility's storm water control system shall be made at least once (1) during a 6 month period. The 6 month periods shall consist of the first half of the year (January thru June) and the second half of the year (July thru December). At least one of the inspections should be conducted within 48 hours of a rainfall or snowmelt event resulting in a storm water discharge.
2. The personnel conducting site inspections must be familiar with permit conditions and the proper installation and operation of control measures.
3. The inspections shall evaluate discharge outlets from areas used for industrial activities, storage of materials, and structural control measures. These areas shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. The control measures identified in the plan shall be observed to ensure that they are operating correctly and in serviceable condition. The SWPP plan shall be revised, as necessary, to correct deficiencies observed during the inspections.
4. A record shall be made summarizing the scope of inspection, major observations relating to the

SWPP plan and any corrective actions taken. The records must be retained for a period of at least 3 years. At a minimum the inspection record (or report) shall include:

- a. Date and time of inspections;
 - b. Name of person(s) conducting inspections;
 - c. Inspection findings, including major observations relating to the SWPP plan, condition of storm water controls, deficiencies noted and recommendations for corrective action(s);
 - d. Corrective actions taken (including dates, times, and party completing maintenance activities); and
 - e. Documentation that the SWPP plan has been amended when substantial changes are made to storm water controls or other BMPs in response to inspections.
5. A permittee may submit an alternative inspection plan for inactive operations or sites where an employee is not normally stationed or does not routinely visit. A copy of the SWPP plan and proposed inspections plan shall be submitted to the Department 30 days prior to implementing an alternative inspection plan. Any alternative plan must provide an inspection interval appropriate for the potential pollutant sources at the site, but not less than once in three years.

B. Sampling Requirements

1. Only those permittees with industrial activities identified in this section are required to sample storm water discharges as a condition of this permit. The minimum monitoring frequency is annual except for discharges from large air transportation facilities, and facilities directed by the Department to follow another schedule.
 - a. Storm water sampling is required for the facilities (industrial activities) identified below. The specific monitoring conditions and parameter list for each facility group is outlined in Appendix 1.
 - Coal Pile Runoff (*Any storm water discharge from coal storage piles*)
 - Wood and Paper Products (*SIC 2421-2426, mills; 2491 preserving; 2493, reconstituted wood products; and 2631, paperboard*)
 - Chemical and Related Products (*SIC 281, industrial inorganic chemicals; 282, plastics and synthetic materials; 284, soaps and detergents; and 287, agricultural chemicals*)
 - Food and Related Products (*SIC 2011, meat packing plants; 2015, poultry processing; and 207, fats and oils*)
 - Primary Metal Industries (*SIC 33*)
 - Hazardous Waste Treatment, Storage and Disposal
 - Landfills and Land Application
 - Automobile Salvage Yards (*SIC 5015*)
 - Scrap Recycling Facilities (*SIC 5093*)
 - Air Transportation (*Regional and Primary Commercial Airports and Air Force Bases*)
 - b. The Department may direct, by written notification, any other facility covered by this permit to conduct storm water sampling. Instances where sampling could be required include, but are not limited to, any of the following:
 - Analytical data is needed to estimate water quality impacts,
 - Discharges are shown to be generally of poor quality, or
 - The SWPP plan is delinquent or determined to be insufficient.

2. The storm water sampling, where required, must conform to the requirements, procedures and conditions contained in Appendix 2.

C. Effluent Limitations

1. The quality of storm water discharges associated with industrial activity shall reflect the best which is attainable through the proper implementation of all items in the SWPP plan for the facility.
2. Any discharge composed in whole or in part of coal pile runoff shall not exceed a daily maximum concentration of 50 milligrams per liter (mg/l) for total suspended solids. The pH, an instantaneous measurement, shall remain within the range of 6.0 to 9.0. Any untreated overflow from facilities designed, constructed and operated to treat the volume of coal pile runoff associated with a 10 year, 24 hour storm event shall not be subject to the total suspended solids limitation.

D. Reporting

1. Facilities covered by this permit, other than those required to sample under Part III.B, are not required to submit reports to the Department on a routine basis. The Department may require reports on a case-by-case basis to gauge permit adequacy such as inspection results summaries, SWPP plans or portions thereof. In addition, local authorities may require routine reporting to evaluate discharges to their storm sewer system.
2. Discharge Monitoring Reports. Facilities that are required to conduct sampling under this permit (Part III.B.1) must submit an annual discharge monitoring report. The report shall summarize monitoring results obtained during the report period. If no discharge occurs during a reporting period, "no discharge" shall be reported. Monitoring reports for a sampling period shall be required from all facilities that are covered by this permit for any portion of that reporting period. The monitoring (or reporting period) and report due dates are as follows:
 - a. For the Primary Commercial Service Airports and US Air Bases the annual report shall cover the period from June 1 to May 31 and be submitted by June 30.
 - b. For all other facilities, the annual report shall cover a period from October 1 to September 30 and be submitted to the Department by October 31.
3. Report Submittal. Signed copies of the discharge monitoring reports, and all other reports required herein, shall be submitted to the Department at the following address:

North Dakota Department of Health
Division of Water Quality
PO Box 5520
Bismarck, ND 58506-5520

PART IV – STANDARD CONDITIONS

- A. **Duty to Comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the Department advance notice of any planned changes at the permitted facility or of any activity which may result in permit noncompliance.
- B. **Operation and Maintenance.** The permittee shall at all times maintain in good working order, and operate as efficiently as possible, all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit and with the requirement of the SWPP Plans. If necessary to achieve compliance with the conditions of this permit, this shall include the operation and maintenance of backup or auxiliary systems.
- C. **Duty to Provide Information.** The permittee shall furnish to the Department, upon request, copies of records required to be kept by this permit. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.
- D. **Records Retention.** All records and information (including calibration and maintenance) required by this permit shall be kept for at least three years or longer if requested by the Department or EPA.
- E. **Signatory Requirements.** All applications, reports or information submitted to the Department shall be signed and certified.
1. All permit applications shall be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official.
 2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - (a) The authorization is made in writing by a person described above and submitted to the Department; and
 - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

If an authorization under item 2 above is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted herein. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

- F. **Immediate Notification.** The permittee shall report any noncompliance of discharge which may seriously endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstance. The report shall be made to the EPA, Region VIII, National Emergency Response Center, at 1-800-424-8802 and the State of North Dakota, Division of Emergency Management, 1-800-472-2121. In addition, a written submission to both the Department and EPA shall be provided within five days of the time that the permittee became aware of the circumstances. The submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; the estimated time noncompliance is expected to continue if it has not been corrected; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- G. **Bypassing.** Any bypass is prohibited except where unavoidable to prevent loss of life, personal injury, or severe property damage, and there were no feasible alternatives to the bypass. The permittee shall provide notification of unanticipated bypasses as may be required by Part IV.F, Immediate Notification. If, for other reasons, a bypass is considered necessary, a request to bypass shall be submitted, at least 15 days in advance if possible, to the Department. No bypass of this type shall occur until permission has been obtained from the Department.
- H. **Upset Conditions.** An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph are not met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

1. An upset occurred and the permittee can identify its cause(s);
2. The permitted facility was, at the time, being properly operated;
3. The permittee submitted notice of the upset as may be required under Part IV.F, Immediate Notification; and
4. The permittee complied with any remedial measures required under Part IV.I, Duty to Mitigate.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

- I. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The permittee, at the Department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.
- J. **Removed Materials.** Collected screening, grit, solids, sludge, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from entering waters of the state or creating a health hazard.

- K. **Right of Entry.** The permittee shall allow Department and EPA representatives, at reasonable times and, if requested, upon the presentation of credentials, to inspect any facilities or equipment (including monitoring and control equipment), to sample discharges, and to have access to and copy any records required to be kept by this permit. For facilities which discharge to a municipal or other separated storm sewer, this shall also pertain to authorized representatives of the municipal operator or the separate storm sewer receiving the discharge.
- L. **Availability of Reports.** Except for data determined to be confidential under 40 CFR, Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.
- M. **Transfers.** This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent Department approval. The Department may require the new operator to file a new application as stated in Part I.D, or apply for a transfer or modification as stated in Part I.F. The current permit holder should inform the new controller, operator, or owner of the existence of this permit and also notify the Department of the possible change.
- N. **New Limitations or Prohibitions.** The permittee shall comply with any effluent standards or prohibitions established under Section 306(a), Section 307 (a), of Section 405 of the Act for any pollutant (toxic or conventional) present in the discharge or removed substances within the time identified in the regulations, even if the permit has not yet been modified to incorporate the requirements.
- O. **Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause. Also, if there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with industrial activity covered by this permit, the owner or operator of such discharge may be required to obtain an individual permit or coverage under an alternative general permit in accordance with this Part. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. The following pertains to individual or alternative general permits:
1. The Department may, at any time and by written notification only, require any person authorized by this permit to apply for and obtain either an individual NDPDES permit or to seek coverage under an alternative NDPDES general permit. Any person covered by this general permit may request to be excluded from such coverage by either applying for an individual NDPDES permit, or filing a Notice of Intent to be covered under an alternative NDPDES general permit.
 2. When an individual NDPDES permit is issued to a person otherwise subject to this permit or the person is approved for coverage under an alternative NDPDES general permit, the applicability of this permit to the individual permittee is automatically terminated upon the effective date of the individual permit or the date of approval for coverage under the alternative general permit. When an individual NDPDES permit is denied to a person otherwise subject to this permit, or the person is denied for coverage under an alternative NDPDES general permit, the applicability of this permit remains in effect, unless otherwise specified by the Department.
- P. **Need to Halt or Reduce.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

- Q. **State Laws.** Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 510 of the Act.
- R. **Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 311 of the Act.
- S. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges; nor does it authorize any injury to private property or any invasion of personal rights; nor any infringement of federal, state, or local laws or regulations.
- T. **Severability.** The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.
- U. **Renotification.** Any request to retain coverage under a renewal of this permit shall be made in writing to the Department at least 15 days prior to the expiration date of this permit. Upon request by the Department, a new Notice of Intent shall be submitted.

PART V - DEFINITIONS

"303d List" or Section 303d List" means a list of North Dakota's water quality-limited waters needing total maximum daily loads or TMDLs developed to comply with section 303d of the Clean Water Act. A copy of the list is available on the state's web site at: http://www.health.state.nd.us/wq/sw/Z7_Publications/A_Publications.htm

"BMP" or "Best Management Practices" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Department" means the North Dakota Department of Health, Division of Water Quality.

"Energy Dissipation" means methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: concrete aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

"Grab" sample, for monitoring requirements, means a single "dip and take" sample collected at a representative point in the discharge stream.

"No Exposure" means that all industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff.

"Non-storm water discharges" means discharges other than storm water. The term includes both process and non-process sources. Process wastewater sources that require a separate NDPDES permit include, but are not limited to industrial processes, domestic facilities and cooling water. Non-storm water sources that may be addressed in this permit include, but are not limited to: fire-fighting, fire hydrant flushing, potable water line flushing, infrequent building and equipment wash down without detergents, uncontaminated foundation drains, springs, lawn watering and air conditioning condensate.

"Operator" means the owner, party, person, general contractor, corporation, or other entity that has operational control over a facility. The operator is responsible for ensuring compliance with all conditions of the permit and with development and implementation of the "storm water pollution prevention plan".

"Severe property damage" means substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Significant materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of CERCLA; any chemical the facility is required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

"Significant spills" includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see 40 CFR 302.4).

"Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm Water Associated with Industrial Activity" means storm water runoff, snow melt runoff, or surface runoff and drainage from industrial activities as defined in 40 CFR § 122.26(b)(14). Industrial facilities (including industrial facilities that are federally or municipally owned or operated that meet the description of the facilities listed in this paragraph (i)-(xi)) include those facilities designated under 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this subsection:

- (i) Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under Category (xi) of this paragraph);
- (ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28, 29, 30, 311, 32, 33, 3441, 373;
- (iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations meeting the definition of a reclamation area under 40 CFR 434.11(1)) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator;
- (iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;
- (v) Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;
- (vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
- (vii) Steam electric power generating facilities, including coal handling sites;
- (viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42, 44, and 45 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i) - (vii) or (ix) - (xi) of this subsection are associated with industrial activity;
- (ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;
- (x) Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale;
- (xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 31 (except 311), 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-25.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"Waters of the state" means any and all surface waters that are contained in or flow in or through the state of North Dakota as defined in NDCC 61-28-02. This definition includes all water courses, even if they are usually dry.

"Primary Commercial Service Airports" means the four major airports with commercial service and two military airfields in North Dakota. The Bismarck Airport, the Fargo Airport, the Grand Forks Airport, the Minot Airport, the Grand Forks Air Base and the Minot Air Base are included in this definition.

"Regional Commercial Service Airports" are the airports located in the cities of Devils Lake, Dickinson, Jamestown, and Williston

Appendix 1 – Industry specific sampling requirements and SWPP plan considerations

The industry types identified in this appendix are required to collect samples of storm water discharges as part monitoring requirements listed in Part III.B of the permit. The specific sampling parameters and monitoring conditions applicable to each industry type are listed below.

The sampling procedures and conditions applicable to all facilities sampling storm water discharges are outlined in Appendix 2. In general, operators must collect grab samples of storm water discharges at least once a year for the parameters listed for their industry type. Appendix 2 also provides conditions for reduction in monitoring based on sample history and “benchmark” values.

Benchmark concentrations should not be interpreted as storm water effluent limitations, individual waste water effluent limitations, or as state water quality standards. Benchmark concentrations provide an appropriate level to determine whether a facility’s storm water pollution prevention measures are effective. A pollutant concentration that is above the benchmark value represents a potential water quality concern and the need to improve a facility’s SWPP plan.

1. Coal Pile Runoff

Applicability: Storm water discharges from coal storage piles.		
<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
• pH		between 6.0 and 9.0
• Total Suspended Solids		50 mg/L
• Copper, Total ¹	0.0636 mg/L	
• Nickel, Total ¹	1.417 mg/L	
• Zinc, Total ¹	0.117 mg/L	
Any untreated overflow from facilities designed, constructed and operated to treat the volume of coal pile runoff associated with a 10 year, 24 hour storm event shall not be subject to the total suspended solids limitation.		

2. Wood and Paper Products

Applicability: Facilities with SIC code 2421-2426 (Sawing/Planning mills), 2491 (Wood Preserving), 2493 (Reconstituted Wood Products), and 2631 (Paperboard Plants).		
<u>Required Parameter</u>	<u>Benchmark Value</u>	
• pH	6.0 – 9.0 S.U.	
• Total Suspended Solids	100 mg/L	
• Chemical Oxygen Demand	120 mg/L	
• Phenols, Total	1.0 mg/L	
• Arsenic, Total	0.1685 mg/L	
• Copper, Total ¹	0.0636 mg/L	
The sampling for Phenols, Arsenic and Copper must be tested at wood preserving facilities only.		

3. Chemical and Related Products

Applicability: Facilities with SIC code 281 (Industrial Inorganic Chemicals), 282 (Plastics and Synthetic Materials), 284 (Soaps and Detergents) and 287 (Agricultural Chemicals).		
<u>Required Parameter</u>	<u>Benchmark Value</u>	
• pH	6.0 – 9.0 S.U.	
• Total Suspended Solids	100 mg/L	
• Total Phosphorus	2.0 mg/L	
• Ammonia ² as N	15.0 mg/L	

<ul style="list-style-type: none"> Nitrates as Nitrogen Chemical Oxygen Demand Zinc, Total¹ 	<p>0.68 mg/l 120 mg/L 0.117 mg/L</p>
Facility must also test storm water for any parameter that may be limited on discharges subject to effluent guideline limitation.	

4. Food and Related Products

Applicability: Facilities with SIC code 2011 (Meat Packing Plants), 2015 (Poultry Slaughtering and Processing), and 207 (Fats and Oils).	
<u>Required Parameter</u>	<u>Benchmark Value</u>
<ul style="list-style-type: none"> Oil and Grease pH Total Suspended Solids Ammonia² as N Nitrates as Nitrogen 5-Day BOD Chemical Oxygen Demand Fecal Coliform 	<p>No visible sheen (15 mg/L) 6.0 – 9.0 S.U. 100 mg/L 15.0 mg/L 0.68 mg/l 30 mg/L 120 mg/L 200 colonies/100mL</p>
Fecal coliform testing is not required at vegetable oil processing facilities.	

5. Primary Metal Industries

Applicability: Any facility classified as SIC code 33.	
<u>Required Parameter</u>	<u>Benchmark Value</u>
<ul style="list-style-type: none"> pH Total Suspended Solids Lead, Total¹ Cadmium, Total¹ Arsenic, Total¹ Copper, Total¹ Zinc, Total¹ 	<p>6.0 – 9.0 S.U. 100 mg/L 0.0816 mg/L 0.0159 mg/L 0.1685 mg/L 0.0636 mg/L 0.117 mg/L</p>
Facility must also test storm water for any parameter that may be limited on discharges subject to effluent guideline limitation.	

6. Hazardous Waste Treatment, Storage and Disposal

Applicability: Facilities that treat, store or dispose of hazardous wastes.	
<u>Required Parameter</u>	<u>Benchmark Value</u>
<ul style="list-style-type: none"> pH Chemical Oxygen Demand Ammonia² as N Arsenic, Total¹ Cadmium, Total¹ Lead, Total¹ Silver, Total¹ Cyanide, Total¹ Lead, Total¹ Mercury, Total¹ Selenium, Total¹ Silver, Total¹ 	<p>6.0 – 9.0 S.U. 120 mg/L 15 mg/L 0.1685 mg/L 0.0159 mg/L 0.0816 mg/L 0.0318 mg/L 0.0636 mg/L 0.0816 mg/L 0.0024 mg/L 0.2385 mg/L 0.0318 mg/L</p>

Once during the 5 year term of the permit the storm water discharges must also be tested for the following parameters: Hardness as CaCO₃, Total Dissolved Solids, Sodium, Calcium, Magnesium, Chloride, Sulfate and Carbonates.

This permit does not authorize the discharge of waters which have come into direct contact with landfill wastes, leachate, gas collection condensate, drained free liquids, contaminated ground water, facility wastewater, contact wash water from washing truck or equipment exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

7. Landfills and Land Application

Applicability: Facilities associated with waste disposal at landfills, land application sites and open dumps that receive industrial waste.

Required Parameter	Benchmark Value
• pH	6.0 – 9.0 S.U.
• Total Suspended Solids	100 mg/L
• Chemical Oxygen Demand	120 mg/L
• Lead, Total ¹	0.0816 mg/L

This permit does not authorize the discharge of waters which have come into direct contact with landfill wastes, leachate, gas collection condensate, drained free liquids, contaminated ground water, facility wastewater, contact wash water from washing truck or equipment exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

8. Automobile Salvage Yards

Applicability: Facilities engaged in dismantling or wrecking used motor vehicles for parts recycling/resale and for scrap; SIC code 5015.

Required Parameter	Benchmark Value
• Oil and Grease	No visible sheen (15 mg/L)
• pH	6.0 – 9.0 S.U.
• Total Suspended Solids	100 mg/L
• Chemical Oxygen Demand	120 mg/L
• Lead, Total ¹	0.0816 mg/L

The SWPP plan must include measures to prevent and respond to leaks and spills of fluids. The plan must also address specific processing and storage practices for materials and parts that present a potential environmental concern. A minimum list of materials and parts presenting environmental concern along with corresponding best management practices are outlined in the Division of Waste Management's *Guideline 37 – Environmentally Friendly Auto and Metal Salvage Facilities*. The guideline, or similar salvage industry BMP guide, may be used as part of a facility's SWPP.

9. Scrap Recycling Facilities

Applicability: Facility engaged in processing, reclaiming and distribution of metal scrap and other waste materials; SIC code 5093.

Required Parameter	Benchmark Value
• Oil and Grease	No visible sheen (15 mg/L)
• pH	6.0 – 9.0 S.U.
• Total Suspended Solids	100 mg/L
• Chemical Oxygen Demand	120 mg/L
• Copper, Total ¹	0.0636 mg/L
• Lead, Total ¹	0.0816 mg/L
• Zinc, Total ¹	0.117 mg/L

The SWPP plan must include measures to prevent and respond to leaks and spills of fluids. The plan must also address specific processing and storage practices for materials and parts that present a potential environmental concern. A minimum list of materials and parts presenting environmental

concern along with corresponding best management practices are outlined in the Division of Waste Management's *Guideline 37 – Environmentally Friendly Auto and Metal Salvage Facilities*. The guideline, or similar salvage industry BMP guide, may be used as part of a facility's SWPP.

10. Air Transportation

Applicability: Regional and Primary commercial Airports and Air Force Bases

Required Parameter	Benchmark Value
• pH	6.0 – 9.0 S.U.
• Ammonia ² as N	15.0 mg/L
• Nitrates as Nitrogen	0.68 mg/l
• 5-Day BOD	30 mg/L
• Chemical Oxygen Demand	120 mg/L
• Deicing material(s) used (Ethylene Glycol, Propylene Glycol and/or other material used)	

PRIMARY COMMERCIAL SERVICE AIRPORTS AND US AIR BASES shall conduct monthly sampling beginning with the first month of deicing activities through the final month of deicing activities. For purposes of any sampling waiver request, the data from the past 4 years of sampling will be considered.

All facilities are encouraged to implement a program to control or manage contaminated runoff to reduce the amount of pollutants being discharged from the site. BMP options (or their equivalents) to consider include: a dedicated deicing facility with a runoff collection/recovery system; storing contaminated storm water/deicing fluids in tanks and releasing controlled amounts to a publicly owned treatment works; and directing runoff into vegetative swales or other treatment systems. Also consider recovering deicing materials when these materials are applied during non-precipitation events (e.g., covering storm sewer inlets, using absorptive booms, etc.) to prevent these materials from being released later.

All facilities shall include a summary with their annual reports which indicates the amounts of deicing materials used during the year.

11. Baseline Parameters

Applicability: Facilities directed to sample by the Department, but not listed in Items 1 - 10

Required Parameter	Benchmark Value
• Oil and Grease	No visible sheen (15 mg/L)
• pH	6.0 – 9.0 S.U.
• Total Suspended Solids	100 mg/L
• Phosphorus, Total	2.0 mg/L
• Ammonia ² as N	15.0 mg/L
• Nitrates as Nitrogen	0.68 mg/l
• 5-Day BOD	30 mg/L
• Chemical Oxygen Demand	120 mg/L

Notes:

1 Hardness dependent; values given are based on a water hardness of 100 mg/L as CaCO₃.

2 Ammonia is pH dependent; value given is based on a pH of 8.0 s.u. TKN values obtained under prior permits may be considered in place of ammonia for sample waivers under Item 9 of appendix 2.

Appendix 2 - Storm Water Sampling Requirements, Procedures and Conditions
Applicable to facilities conducting a sampling based monitoring program.

1. **Sample frequency and test parameters.** The facilities with industrial activities listed in Appendix 1 or are notified to sample by the Department must, at a minimum, collect grab samples of storm water discharges on an annual basis. The minimum parameters to be tested are listed in Appendix 1 by type of facility (industrial activity).
2. **Sample procedures.**
 - a. All samples and measurements taken shall be representative of the discharge. Samples shall be collected from discharges resulting from a storm event that is greater than 0.1 inches in magnitude and that has occurred at least 72 hours from the last 0.1-inch or greater storm event which generated runoff. Snowmelt which generates runoff considered equivalent to or greater than a 0.1-inch precipitation event qualifies for sampling purposes. However, no more than one sample per year for each sampling site can be from a snowmelt event.
 - b. For discharges from holding ponds or other impoundments with a 24-hour or greater retention capability, grab samples of the discharge may be obtained at any time. For all other discharges, grab samples shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample may be taken during the first hour of the discharge, provided the permittee submits a description of why the grab sample could not be obtained during the first 30 minutes with the DMR.
 - c. For storm events sampled, the permittee shall record the date and duration (in hours) of the event, rainfall amount or estimates (in inches) of the event, the approximate duration since the end of the last 0.1-inch or greater storm event which generated runoff, and an estimate of the size of the drainage area. The information shall also be included on DMRs. The permittee shall have the option of maintaining a rain gauge at his site or utilizing the nearest National Weather Service rain gauge station. Any gauge station used shall be located within 10 miles of the storm water discharge.
3. **Impractical or adverse conditions.** When a permittee is unable to collect samples due to impractical or adverse climatic conditions, the discharger must submit in lieu of sampling data a description of why samples could not be collected, including available documentation of the event. Impractical or adverse climatic conditions which may prohibit the collection of samples include: normal non-working hours, nightfall, or weather conditions that create dangerous conditions for personnel (local flooding, high winds, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impractical (drought, extended frozen periods, etc.).
4. **Representative sampling.** When a facility has two or more outfalls which the permittee believes would discharge substantially identical effluents, based on the features and activities within the areas drained by the outfalls, the permittee may submit a representative sampling plan in which at least 20 percent of all outfalls would be monitored. Permittees wishing to utilize this option shall submit documentation as to why they believe discharges from the sites will be substantially similar and also identify their proposed sampling sites. Upon approval by the Department, the representative sampling plan can be implemented.

5. **Equivalent monitoring plans.** Where appropriate, results for monitoring plans developed for other regulatory agencies or other purposes can be used for the requirements of this permit. The alternative monitoring plans can only be implemented upon written request by the permittee and subsequent written approval by the Department. When it is not feasible to develop a monitoring plan based on the percentage of outfalls, an alternative monitoring plan representative of the features and activities impacting storm water outfalls may be developed. The alternative plan must contain an explanation of why a percentage based plan is impracticable and how the plan is representative of the storm water discharges at the facility.
6. **Test Procedures.** The collection and transportation of all samples shall conform with EPA preservation techniques and holding times. All laboratory tests shall be performed by a certified laboratory in conformance with test procedures pursuant to 40 CFR 136. The method of determining the total amount of water discharged shall provide results within reasonable accuracy.
7. **Recording of Results.** For each sample taken, the name of the sampler, the exact place, and the date and time of the sampling shall be recorded. For each sample analyzed, the name of the laboratory, the name of the analyzer, the analytical techniques used, the test results, and the date and time of the analysis shall be recorded.
8. **Additional Monitoring.** If the discharge is monitored more frequently than this permit requires, all additional results, if in compliance with item 6, Test Procedures, shall be included in the summary on the Discharge Monitoring Report.
9. **Sampling Waiver.** A permittee may seek a waiver from all or part of the sampling requirements outlined in Appendix 1 by demonstrating that the conditions listed below have been met. The waiver (or reduction in sampling) may be pursued on both a parameter by parameter and outfall by outfall basis. The waiver request must be submitted to the Department for approval. The approval of any waiver will be based on the following conditions:
 - a. At least four (4) samples must have been collected and analyzed from a discharge point where sampling is required for the parameter(s) being considered. The samples may have been obtained over the course of one year or several years. The results from the four (4) most recent samples must have an average concentration below the benchmark value listed in Appendix 1. A summary of all available monitoring data should be included in the request.
 - b. The industrial activities at the site (such as materials handling and storage, chemical use, waste disposal practices, erosion controls, and other types of industrial activities) have not changed since the samples were taken in any way that could have an adverse impact on storm water quality.
 - c. This waiver is not applicable to sampling for parameters which are required due to effluent limits in the permit.